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HIGH COURT OF CHHATTISGARH, BILASPUR

W. P (S) No. 4535/2007

PETITIONER

Ashwani Jaiswal, aged about 46 years, s/o S.S. Jaiswal, R/o New B-Type, Bodripara, Chirmiri, Distt. Koriya (C.G).

Versus

RESPONDENTS

- 1** South Eastern Coalfields Limited, through Chairman cum Managing Director, Seepat Road, Bilaspur (C.G)
- 2** Deputy General Manager (M/P, Man Power) S.E.C.L., Seepat Road Bilaspur (C.G)
- 3.** Deputy Chief Personnel Manager, Chirimiri Area, Distt. Koriya (C.G).
- 4.** Deputy Chief Personnel Manager, Raigarh Area, Distt. Raigarh (C.G)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

Appearance:

Shri Parag Kotecha, counsel for the petitioner.

ORAL ORDER

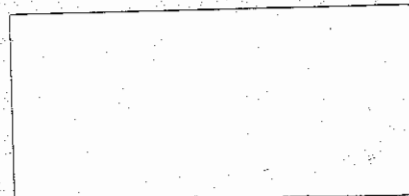
(12.10.2007)

SUNIL KUMAR SINHA, J.

Heard on admission.

The petitioner, who is working on the post of Clerk, Grade-II in the respondents' organization and was transferred by order dated 6-7th of November, 2006 from Chirimiri to Raigarh has challenged the legality of the said order.

Learned counsel for the petitioner argues that earlier to this, another writ petition bearing no.1193/2007 was filed by the petitioner challenging the same order, but the said petition was dismissed as withdrawn on 28th of Feb. 2007. While dismissing the aforesaid petition, this Court has directed the respondent authorities to consider the representation dated





10.11.2006 (Annexure P-6) of the said petition filed by the petitioner in accordance with law within a period of 4 weeks from the date of receipt of copy of the said order.

Learned counsel submits that the copy of the said order was filed before the competent authority on 12.3.2007 but the representation has not been decided till date and a contempt petition has been filed by the petitioner against the concerned authority, which is pending consideration. He submits that thereafter the petitioner has filed this second writ petition.

On merits learned counsel submits that the transfer of the petitioner has been effected against the policy of the S.E.C.L., according to which, if the children of the employee are to appear in the board examination then the transfer shall not be effected till the month of April of the current academic session. Though this contention has been raised but no document to this effect has been filed alongwith the petition that is to say that no such policy has been filed along with this petition. He submits that this policy was filed in the earlier writ petition.

Needless to say, these are not the grounds for a Court of law to interfere with the order of transfer passed by the competent authority. Transfer is an incidence of service. No person working on a transferable post can claim to be posted at a particular place. It is for the employer to see that who should be posted where in the interest of better functioning of the department as also in the public interest. It is the settled view of the Apex Court that unless the order of transfer is vitiated by malafides or extraneous consideration or is against any statutory Rules or Act, the same cannot be interfered by a Court of Law.

Learned counsel for the petitioner could not point out any ground of malafide, extraneous considerations or violation of any statutory rules or the Act.

Sd/-
Sunil Kumar Sinha
Judge